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IN THE

Supreme Court of the United States

October Term, 1973.

No. 73-434.

WILLIAM G. MILLIKEN, *et al.*,
Petitioners,

vs.

RONALD G. BRADLEY, *et al.*

No. 73-435.

ALLEN PARK PUBLIC SCHOOLS, *et al.*,
Petitioners,

vs.

RONALD G. BRADLEY, *et al.*

No. 73-436.

THE GROSSE POINTE PUBLIC SCHOOL SYSTEM, *et al.*,
Petitioners,

vs.

RONALD G. BRADLEY, *et al.*

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

Motion for Leave to File a Brief *Amicus Curiae* and Annexed Brief of the Jewish Rights Council.

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Table of Contents.

	Page
Motion of the Jewish Rights Council for Leave to File a Brief *Amicus Curiae*	1
Interest of the *Amicus*	2
Brief of Jewish Rights Council as *Amicus Curiae*	5
Interest of the *Amicus*	6
Opinions Below	6
Statement of the Case	6
Decision of the Court of Appeals	7
Summary of Argument	8
ARGUMENT:	
POINT I. The mere fact that the whole public school system of a city would become racially identifiable, under any desegregation plan limited to the city's geographical limits, does not furnish a sufficient basis for a judicial decree of a metropolitan plan of cross-district public school pupil re-assignments and transportation, particularly in the absence of any evidence of any acts committed by the suburban school districts causing racial segregation in the city	8

Page

POINT II. The social costs of judicial decrees for cross-district public school pupil assignments and transportation mandate that any such decree should be supported by clear evidence of the commission of acts resulting in segregation by each and every district affected by such decrees after a full opportunity to be heard on all issues 13

Conclusion 19

TABLE OF AUTHORITIES.

Cases:

Bell v. Maryland, 378 U. S. 226 (1963) 12

Bradley v. School Board of Richmond, 338 F. Supp. 67 (E.D. Va. 1972); reversed, 462 F. 2d 1058; affirmed *sub nominem* Richmond School Board v. Board of Education, 412 U. S. 92 (1973) 21

Brown v. Board of Education ("Brown I"), 347 U. S. 483 (1954) 4, 10, 11

Brown v. Board of Education ("Brown II"), 349 U. S. 294 (1955) 11, 15

Cooper v. Aaron, 358 U. S. 1 (1958) 4

Esteban v. Central Missouri State College, 415 F. 2d 1077 (8 Cir. 1969); certiorari denied, 398 U. S. 965 (1970) 16

Green v. County School Board, 391 U. S. 430 (1968) 9

Page

Keyes v. School District No. 1, Denver, Colorado, ... U. S. ..... (Slip Opinion, No. 71-507; June 21, 1973) 4, 9

Plessy v. Ferguson, 163 U. S. 537 (1896) 12

Rees v. City of Watertown, 86 U. S. (19 Wall.) 107 (1874) 9

Richmond School Board v. Board of Education, 412 U. S. 92 (1973) 4

Swann v. Charlotte-Mecklenburg, 402 U. S. 1 (1971) 9, 10, 18

United States v. Texas Education Agency, 467 F. 2d 848 (5 Cir. *en banc*, 1972) 17

Wright v. City Council of Emporia, 407 U. S. 451 (1971) 9

Zebra v. Pittsburgh School District, 41 L. W. 2167 (Penna. Common Pleas, Allegheny County; September 14, 1972) 16

Other Authorities.

Armor, David J.: "The Evidence on Busing" in *The Public Interest*, No. 28 (Summer, 1972) 17

Cohen, Pettigrew, and Riley: "Race and the Outcomes of Schooling" in *On Equality of Education Opportunity* (Library of Congress Catalogue No. 78-117653; Random House, 1972) 17

Coleman Report, "Equality of Educational Opportunity" (U. S. Office of Education, 1966) 18

Page

Congressional Record (daily), Vol. 119, No. 12 (93rd Cong, 1st Sess; January 23, 1973) 14

Congressional Record (daily), Vol. 118, No. 29 (92 Cong, 2d Sess; February 29, 1972) 14

Elden, Gary: "'Forty Acres and a Mule' With Interest: The Constitutionality of Black Capitalism, Benign School Quotas, and Other Statutory Racial Classifications" in 47 Journal of Urban Law 591 (1969-1970) 12

Hodgson, Godfrey: "Do Schools Make a Difference" in *The Atlantic*, Vol. 231, No. 3 (March, 1973) 18

Investigation and Study of the Public School System of the District of Columbia, House Report No. 91-1681 (91st Cong, 2d Sess; 1970) 16

Jencks, Christopher: "Busing—The Supreme Court Goes North" in *The New York Times Magazine*, November 19, 1972 17

Memorandum for the United States as *Amicus Curiae* in *School Board of Richmond v. State Board of Education* (Nos. 72-549 and 72-550) [412 U. S. 92] 13

Mosteller and Moynihan: On Equality of Education, "A Pathbreaking Report" (Library of Congress Catalogue No. 78-117653; Random House, 1972) 17

Page

Nordheimer, Jon: Atlanta N.A.A.C.P. Defies National Office and Refuses to Drop Approval of School Plan" in *N. Y. Times*, July 11, 1973, p. 19 18

Pettigrew, Thomas *et al.*: "Busing: A Review of 'The Evidence'" in *The Public Interest*, No. 30 (Winter, 1973) 17

Third Report of the Temporary [New York State] Commission to Study the Causes of Campus Unrest: Academy or Battleground (Albany, N. Y.; 1972) 16

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William G. Milliken, *et al.*,

Petitioners,

vs.

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No. 73-435.

Allen Park Public Schools, *et al.*,

Petitioners,

vs.

Ronald G. Bradley, *et al.*

No. 73-436.

The Grosse Pointe Public School System, *et al.*,

Petitioners,

vs.

Ronald G. Bradley, *et al.*

On Writs of Certiorari to the United States Court of Appeals for the Sixth Circuit.

Motion of the Jewish Rights Council for Leave to File a Brief *Amicus Curiae*.

The undersigned as counsel for the above-named organization, respectfully moves this Court for leave to file the accompanying brief *amicus curiae*.

Interest of the *Amicus*.

The Jewish Rights Council, *Amicus*, was founded in 1971 for the purpose of ensuring and promoting equality of all persons before the law, and in that manner to strengthen and preserve the security and constitutional rights of Jews in America through the preservation of the equal rights of all Americans. The Jewish Rights Council believes that the welfare of Jews in this country is inseparably related to and dependent upon the equality of treatment of all Americans, regardless of race, religion, creed, or ethnic background. The membership of the Jewish Rights Council includes over one hundred Rabbis from over thirteen states, representing Orthodox, Conservative and Reform Congregations. The leadership of the Jewish Rights Council includes Rabbis who marched with the late Reverend Martin Luther King in Selma, Alabama, for the equality of all persons before the law.

The instant case raises an important, if not crucial, issue under the Equal Protection Clause of the Fourteenth Amendment, involving the imposition of a Metropolitan Plan of cross-district pupil assignments in the public schools of a major metropolis in order that no public "school, grade or classroom b[e] substantially disproportionate to the overall pupil racial composition." District Court below, Joint Appendix (101a-102a).*

Public education has been one of the keystones for the success of the Jew and other minority groups in America, and therefore the Jewish Rights Council has a particular

*Hereinafter, references to the Joint Appendix, filed by petitioners with their petitions for writs of certiorari, will be indicated by page numbers (followed by the letter "a") enclosed in parentheses ( ).

interest in quality, as well as equality, in public educational facilities. Being composed of members of an historically persecuted minority, the membership of the Jewish Rights Council is especially sensitive to any and all forms of discrimination based upon race, religion, or ethnic background. Therefore, the interest of *Amicus* herein is to oppose the misinterpretation of the Equal Protection Clause of the Constitution as requiring a racial group balancing in the public schools or in any other public function in this country. The judicial mandate of a color-conscious racial balancing in public school systems threatens to undermine the principles underlying a color-blind merit system of entry into such fields as higher education and employment, by way of "affirmative action" programs in favor of certain minority groups in the name of racial balancing, to the detriment of the equal protection and opportunity of members of those minority groups which are not accorded the same preferences. These "affirmative action" preferences pose "intractable problems" of values underlying our society and conflict with the fundamental "belief in individual human dignity and the libertarian belief that each person is entitled to be judged and valued as an individual." (*Appendix A* in dissenting opinion of Circuit Judge Weick in this case in the Court below, Joint Appendix (191a, 271a). And yet the District Court below found the need for just such an "affirmative program for black employment" (76a) with respect to the hiring and promotion of black staff and teachers, as part and parcel of the Metropolitan Plan.

However, the Jewish Rights Council firmly believes that it is extremely important for the preservation of our American way of life, with its concomitant "American dream," that the rights of every person shall be accorded on an individual basis, and that the rights of "any person" (Amend. XIV) shall not be sacrificed in the name of the promotion of a selected group. But the approach of the District Court that "no school, grade or classroom

b[e] substantially disproportionate to the overall pupil racial composition" (101a-102a) is but a small step from the infamous *numerus clausus* of the dark past under which Jews and other minorities suffered.

On the other hand, the Jewish Rights Council wishes to make it crystal clear that there must never be the slightest retreat from the principle of *Brown v. Board of Education*, 347 U. S. 483 (1954), that a State or its agents may not deny the equal access to a public school (or other facility) to any person on the basis of race, religion, or ethnic background. In the words of the late Mr. Justice Frankfurter:

> "Color alone cannot bar a child from a public school." *Cooper v. Aaron*, 358 U. S. 1, 25 (1958) (concur. op.).

This is the promise of *Brown* from which there must be no retreat anywhere in our Nation.

The Jewish Rights Council has filed briefs as *amicus curiae* in this Court previously in the public school cases of *Keyes v. School District No. 1, Denver, Colorado*, Docket No. 71-507, and in *Richmond School Board v. Board of Education*, 412 U. S. 92; and is filing a brief *amicus curiae* this Term in *DeFunis v. Odegaard*, No. 73-235, on consent of all parties.

The consent of the parties to the filing of a brief *amicus curiae* has been sought by the undersigned. Counsel for the petitioners have consented, but counsel for respondents have not consented. Accordingly, leave of this Court is being sought to file the annexed brief *amicus curiae*.

Dated: December 21, 1973

Respectfully submitted,

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ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT.

Brief of Jewish Rights Council as *Amicus Curiae*.

This brief is submitted by the *amicus curiae* conditionally upon the granting of the motion for leave to file to which it is annexed.

Interest of the *Amicus*.

The interest of the *amicus* is set forth in the motion for leave to file to which this brief is annexed.

Opinions Below.

Some of the opinions of the District Court are reported at 338 F. Supp. 582 and at 345 F. Supp. 914. These opinions, together with the remainder of the opinions and orders of the District Court, are printed in the Joint Appendix filed in this court by the petitioners with their petitions for writs of certiorari. The opinion of the Court of Appeals for the Sixth Circuit is reported at 484 F. 2d 215 (advance print) and also is printed in the Joint Appendix (110a).

Statement of the Case.

This class action was commenced in August of 1970 for the purpose of desegregating the public schools within the City of Detroit, Michigan. By 1970, the various public schools in the City of Detroit where racially unbalanced, while the overall pupil population in the City school system was 63.8% black. The "principle causes" of such imbalance were found by the District Court to have been "population movement and housing patterns" (33a) as well as "economic factors" (23a) plus the fact that "blacks, like other ethnic groups in the past, have tended to separate from the larger group and associate together" (34a).

The District Court searched among the 85 separate and independent suburban school districts in the three counties

of Wayne, Macomb and Oakland (just outside the City of Detroit) to establish a "desegregation area" for the cross-reassignment and transportation of pupils with those in the City of Detroit. The District Court found some 53 of these suburban school districts to be suitable for this cross-district pupil reassignment Metropolitan Plan in such a manner that no school cluster tend to be "disproportionate black relative to the tri-county starting point" (69a) and that "no school, grade or classroom b[e] substantially disproportionate to the overall pupil racial composition" (101a-102a). However, there was no evidence taken with respect to the original establishment of the boundaries of any of the tri-county school districts nor whether any of the suburban school districts had "committed acts of *de jure* segregation" (59a-60a).

The school districts outside the City of Detroit were allowed to intervene as parties only after the District Court had found that any "Detroit-Only" plan (limited to the confines of the City of Detroit) would leave the public school system of Detroit as a whole "perceived as black" (55a).

Decision of the Court of Appeals.

In its decision (108a, 244a), the Court of Appeals vacated and remanded some of ths District Court's Rulings and Orders, including an order requiring the acquisition of at least 295 buses; but the Court of Appeals let stand as affirmed both the District Court's Ruling that the Detroit school system was "*de jure* segregated" (38a) and the District Court's crucial Conclusion that "relief of segregation in the public schools of the City of Detroit cannot be accomplished within the corporate limits of the city" (56a, 162a).

Summary of Argument.

There was no evidence of any acts by the suburban school districts which caused *de jure* segregation. Consequently there was no legal predicate for a color-conscious desegregation plan for the City of Detroit which would include any of these suburban schools. The mere fact that, under any Detroit-Only plan the City of Detroit would be perceived by some as "racially identifiable" as to its school system as a whole, does not constitute a constitutional violation. In any event, the social costs of cross-district desegregation decrees mandate that any such decree be supported by clear and convincing evidence of the commission of *de jure* acts of segregation by each and every school district affected by such decrees, after a full opportunity to be heard on all issues.

ARGUMENT.

POINT I.

The mere fact that the whole public school system of a city would become racially identifiable, under any desegregation plan limited to the city's geographical limits, does not furnish a sufficient basis for a judicial decree of a metropolitan plan of cross-district public school pupil re-assignments and transportation, particularly in the absence of any evidence of any acts committed by the suburban school districts causing racial segregation in the city.

As found by the District Court below, there was no evidence that any of the suburban school districts in the tri-county region had committed any "acts of *de jure* segregation" (60a), and no proofs were taken "with respect to the establishment of the boundaries of 86 public school districts in the counties of Wayne, Oakland and

Macomb" (*ibid.*). The sole predicate for the inclusion of the suburban school districts which were selected as the "desegregation area" was the fear of the District Court that any Detroit-Only plan would at best "change a school system which is now Black and White to one that would be perceived as Black, thereby increasing the flight of Whites from the city and system, thereby increasing the Black student population" (55a, Finding 8; 161a). However, in order that the pupils in the suburban districts be subject to an equitable remedy, it is essential that these pupils or their school districts should have committed a constitutional violation. For the equity power of a federal court is limited to cases in which a "constitutional violation" has been found. *Swann v. Charlotte-Mecklenburg,* 402 U. S. 1, 16. Thus, in the absence of a showing of a constitutional violation or any other federal "legal obligations" (*Rees v. City of Watertown,* 19 Wall. 107, 121) on the part of the suburban school children, parents, or districts, there was no predicate for a judicial decree to include them. For there was no dual system, particularly in the suburbs, to be dismantled as in *Green v. County School Board,* 391 U. S. 430, or in *Swann, supra,* 402 U. S. 1; nor a previous history of a dual system as in *Wright v. City Council of Emporia,* 407 U. S. 451; nor any evidence of the commission of "acts constituting *de jure* segregation." *Keyes v. School District No. 1, Denver, Colorado,* ..... U. S. ..... (No. 71-507, Slip Opinion at p. 22, decided June 21, 1973).

The District Court, however, condemned any remedy under which the Detroit City school system as a whole would "be perceived as Black" (55a). The Court of Appeals believed that no remedial decree would be satisfactory which would leave the Detroit City school system "overwhelmingly black" (173a). But there is nothing inherently unconstitutional in a 65% or an 85% black school system as a whole, for nothing in the Constitution guar-

antees that a public school system as a whole should contain less (or more) than any particular or arbitrary proportion of blacks or whites, Jews or Gentiles. Such an assumption of unconstitutionality is itself insulting to the members of those groups, and somehow reads into the phrase "any person" in the Fourteenth Amendment's Equal Protection Clause the concept of a group right, as though the Constitution somewhere guaranteed to any *group* the "equal protection of the laws." U. S. Const., Amend. XIV.

It is difficult to see how the prediction that the whole public school system of the City of Detroit would be "perceived as Black" (55a, 161a) could possibly create "a right" (*Swann*, 402 U. S. at 15) of the black (and white) pupils of the public schools in that City to attend any schools in the separate and independent suburban school systems. But, only where "a right and a violation" (*Swann*, 402 U. S. at 15) have been proven can the broad equitable powers of a federal district court be exercised. Yet no such violation was shown to have been committed by the suburban schools; therefore, there was no basis for the finding of the district court below that the suburban schools must be included in the "desegregation area."

What is required by the Constitution is the admission of all school children to the public schools "*of their community* on a nonsegregated basis." *Brown I*, 347 U. S. at 487. (Italics added.) Every public school child has the right not to be "denied admission to schools attended by white children under laws requiring or permitting segregation according to race." *Brown I*, 347 U. S. at 488. The vice in *Brown I* was the assignment of black and white pupil-neighbors to different schools "solely on the basis of race." *Brown I*, 347 U. S. at 493. However, in

the City of Detroit prior to the consideration of the Metropolitan Plan, no Detroit school child, black or white, had a right to attend any public school in the suburbs. Yet, according to the District Court below, some of the Detroit school children to be selected by "various lotteries" (72a) somehow acquired such a right merely because the City's public schools would be "perceived as Black" after any Detroit-Only plan. Only by assuming that a predominantly black school system as a whole is somehow inferior can the Metropolitan Plan approach be justified. But such an assumption itself generates "a feeling of inferiority" (*Brown I*, 347 U. S. at 494) and does not comport with the constitutional assumption of the equality of the races, a presumption so essential for Equal Protection of Law.

In this country, there exist many ethnic neighborhoods which tend to persist by reason of private choices; and there are, in particular, many predominantly black neighborhoods which persist for a variety of reasons also. Are all the neighborhood schools in all of such neighborhoods necessarily violative of the Constitution even though some of them can and do educationally serve their non-integrated student bodies at least as well as the more "integrated" schools?

The spectre of the District Court's remedy of such contorted pupil assignment practices as "various strip, skip, island, and non-contiguous zoning; various lotteries based on combinations of present school assignments, geographic location, name, or birthday" (72a), hardly the "compact units" of *Brown II*, 349 U. S. at 300, all in order to achieve a 25% black quota in every school (213a, 192a, n. 1, dissent. op.) should make anyone wonder as to just how long this Metropolitan Plan can remain stable. How long before the phenomenon of "white flight" (63a)

takes over both from the public to the private schools and from the "desegregation area" to the other school districts in the tri-county region which are outside of this "desegregation area," thereby necessitating an entirely new plan at further social costs to all of the affected pupils, parents, and school districts?

The fact that the Metropolitan remedy is being opposed by some 43 of the affected school districts is evidence enough of the potent private forces in opposition to such a remedy. But it takes only a relatively small percentage of fleeting whites to push the percentage of blacks in a school system from 25% to "substantially above 40%" at which point "white students tend to disappear entirely from the school at a rapid rate." *Bradley v. School Board of Richmond*, 338 F. Supp. 67, 194 (E. D. Va., 1972), *reversed*, 462 F. 2d 1058; *affirmed by equally divided court*, 412 U. S. 92 (1973). And other authorities believe that once the black population of a school "approaches 25%, it rapidly will become 100%." Elden, Gary: *"Forty Acres and a Mule," with Interest: The Constitutionality of Black Capitalism, Benign School Quotas and Other Statutory Racial Classifications*, 47 Journal of Urban Law, 591, 609 (1969-1970).

The suburbs in the "desegregation area" did not utilize the suspect classification of race as a criterion for pupil assignments or district lines, but the District Court did so in selecting the Metropolitan Plan remedy's contours of the "desegregation area." However, courts should minimize, not maximize, the use of race, religion, or ethnic background as a criterion for selecting a remedy in any case; for otherwise the judiciary undermines the fundamental principle that our Constitution is "color blind." *Bell v. Maryland*, 378 U. S. 226, 288; *Plessy v. Ferguson*, 163 U. S. 537, 552, 559 (dissenting opinion of

Mr. Justice Harlan). Therefore, rather than the color conscious "broad brush" approach of the court below, and in order to avoid needless color conscious judicial remedies, any relief "should be tailored to fit the particular violation." *Memorandum for the United States as Amicus Curiae in Richmond School Board v. Board of Education*, Nos. 72-549 and 7-550, p. 26 [412 U. S. 92]. And, since there was no finding that the suburban school districts in the "desegregation area" had gerrymandered their boundaries or otherwise committed color conscious acts of *de jure* segregation, it is fundamentally unfair to select them out as constituting the area which is "substantially proportionate to the tri-county starting point" (69a) for bearing the burden of the "social goal through the educational system, by using law as a lever" (41a).

POINT II.

The social costs of judicial decrees for cross-district public school pupil assignments and transportation mandate that any such decree should be supported by clear evidence of the commission of acts resulting in segregation by each and every district affected by such decrees after a full opportunity to be heard on all issues.

The dangers of the tri-county Metropolitan remedy approach of the District Court below are compounded by the realities of our national life. The decision of this Court in this case will not be confined in its impact solely to the Detroit, Michigan, region, but, will have major impact upon virtually every metropolitan area of this nation. Yet, today all over America, grave disorder increasingly plagues our schools and make it imperative that teachers easily be able to identify pupils and distinguish them from outsiders.

Legislators in both Houses of Congress have reintroduced bills this year to deal with the problem of crime in the schools: Proposed Safe Schools Act of 1973, S. 485, H.R. 2650. In support of this bill, one of its sponsors, Senator Cranston, pointed out:

> "In New York [City], 1200 security aides were added to the school staff just before Thanksgiving, in an effort to curb robberies, fighting, and racial confrontation." 119 Cong. Rec. (daily) No. 12, S. 1074, col. 3 (January 23, 1973) (93rd Cong., 1st Sess.).

A study of 110 different school districts all over the nation, by the Senate Subcommittee on Juvenile Delinquency, indicates that assaults on teachers had increased "by an incredible percent—from 25 in 1964 to 1801 in 1968." Senator Gurney, co-sponor of the proposed Safe Schools Act of 1973, 119 Cong. Rec. (Daily) No. 12, S. 1072, col. 3 (January 23, 1973).

Much of our problem of Crime in the Schools is due to "outsiders—people who don't belong in the schools in the first place." Congressman Bingham, House sponsor of the proposed Safe Schools Act of 1973, 118 Cong. Rec. (daily) No. 29, H 1598, col. 2 (February 29, 1972) (92d Cong., 2d Sess.). As further emphasized by Congressman Bingham:

> "We must at least in every school be able to spot individuals who clearly don't belong—and spot them quickly." Congressman Bingham, 118 Cong. Rec. (daily) No. 29, H 1598, col. 2 (February 29, 1972) (92d Cong., 2d Sess.).

For this reason alone, it appears imperative that the use of carefully controlled neighborhood school district attendance boundaries which are "compact units" (*Brown*

II, 349 U. S. at 300) should not be rejected out of hand, but only after a full opportunity to be heard by all affected school districts. Yet, such an opportunity was denied to the suburban school districts whose *subpoena duces tecum* seeking crime statistics in the Detroit schools was quashed by the District Court. Joint Appendix: 211a-212a (dissenting opinion below).

In balancing the equities in a school busing case, it is well to consider the following findings of a New York State Commission:

> "Members of the Commission are convinced that, despite the apparent failure of busing, the people of our State cannot afford to lose sight of the original mandate of *Brown* both in spirit and in letter. If busing has failed, we can and must create an atmosphere in which every child in our State has the opportunity for an equal education. • • •
>
> "If busing has failed, that failure has resulted in a major cause of academic unrest; the chasms continue to grow; the fears continue to multiply; the incidents grow more numerous; the violence grows more violent • • •
>
> "In order to put the busing question in its proper perspective, we must again bear in mind that busing in rural areas has long been in use and accepted, and that the busing which appears to have failed is the busing solely for the purpose of integration.
>
> "Busing for the purpose of integration in most cases takes youngsters from their own neighborhoods and customs and daily way of life. They are forced to spend the entire school day, a good part of their life, in an alien and strange atmosphere and way of life which, if only for that reason would appear hostile to the child. • • •
>
> "There is, however, little apparent confusion among the majority of those interviewed regarding what they feel to be the solution. To them, equal opportunity and quality education should be pro-

> vided to the student irrespective of the community in which he lives, together with voluntary expanded enrollment rather than compulsory busing." *Third Report of the Temporary* [*New York State*] *Commission To Study The Causes Of Campus Unrest* ("Academy or Battleground"), Part I ("Secondary Schools"), Section II "Secondary Schools 1971-1972—Movement of Students to Achieve Integration, Alternative Busing Proposal"), pages 35-36, 45 (Albany, N. Y., 1972).

See also: *Zebra v. Pittsburgh School District,* 41 L. W. 2167 (Penna. Common Pleas, Allegheny County, September 14, 1972), where a desegregation plan led to such violence that an injunction was issued against the continued mandatory attendance at schools by the transferred stuents. And as found in the Report of the Committee on the District of Columbia with respect to the experience with busing:

> "The reason for this bussing was the so-called 'Skelly Wright' decision where the Court ordered the Public School System to achieve racial balance and to equalize pupil costs. In either case these efforts have not been successful." *Investigation And Study of the Public School System of the District of Columbia,* House Report No. 91-1681 (91st Cong., 2d Sess.), at p. 84.

In any event, in view of the physical problems and social costs of busing in our nation's public schools, it seems most imperative that the federal judiciary should not interfere with the day-to-day operation of these schools unless "there is a clear case of constitutional infringement" (*Esteban v. Central Missouri State College,* 415 F. 2d 1077, 1090 [8 Cir. 1969, per Blackmun, J.]) and with a minimum of interference when there is such a clear case. For it has been well stated that:

> "The efforts to disestablish segregated schools have repercussions far beyond the original confines of the problem and into broader issues such as flight from urban areas, the decay of our cities, and the ability of our governmental structures to survive the overall economic consequences." *United States v. Texas Education Agency*, 467 F. 2d 848, 889 (5 Cir., *en banc*, 1972).

And the Metropolitan remedy threatens to cause even further repercussions in the suburban areas of our country.

In the face of the further disciplinary and educational problems inherent in the cross-district Metropolitan remedy, it is well to note that there is increasing evidence that the supposed educational benefit of racial integration to black children is being seriously questioned by the scholars. It now appears that even the cumulative effects of complete racial balancing in public schools can close the educational gap between blacks and whites by only 20 to 30 percent, if at all. See: Christopher Jencks, "Busing—The Supreme Court Goes North," *The N. Y. Times Magazine*, November 19, 1972, page 41 at page 120, col. 1; Thomas F. Pettigrew, *et al.*, "Busing: A Review of 'The Evidence,'" *The Public Interest*, No. 30 (Winter, 1973), page 88 at page 99; David J. Armor, "The Evidence on Busing," *The Public Interest*, No. 28 (Summer, 1972), page 90 at page 99; Frederick Mosteller and Daniel P. Moynihan, *On Equality of Educational Opportunity*, "A Pathbreaking Report," page 3 at page 24 (Library of Congress Catalogue No. 78-117653; Random House, 1972); David K. Cohen, Thomas F. Pettigrew, and Robert T. Riley, "Race and the Outcome of Schooling," *Id.* page 343 at page 358.

The famous Coleman Report concluded:

> "It is known that socioeconomic factors bear a strong relation to academic achievement. When these factors are statistically controlled, however, it appears that differences between schools account for only a small fraction of differences in pupil achievement." The Coleman Report: *Equality of Educational Opportunity,* 1966, U. S. Office of Education, OE 38000 at page 21.

And at least one scholar has been quoted as summarizing the Coleman Report as demonstrating that: "• • • schools make no difference; families make the difference." Godfrey Hodgson quoting Professor Seymour Martin Lipset telling Daniel Patrick Moynihan, in "Do Schools Make A Difference," *The Atlantic,* Vol. 231, No. 3, page 35 (March, 1973). Yet the District Court excluded all evidence on the questionable value of cross-busing (210a) even though such evidence is relevant to the "balancing of the individual and collective interests." *Swann,* 402 U. S. at 16.

Black plaintiffs in class actions involving potential busing orders now have learned to compromise such cases, with district court approval, by settling for little or no integration to remedy racial imbalances, in exchange for a quota of "top administrative jobs" for black teachers. Nordheimer: "Atlantic N.A.A.C.P. Defies National Office and Refuses to Drop Approval of School Plan." *N. Y. Times,* July 11, 1973, at page 19. Thus busing decrees lend themselves to the pressures of corruption. And it should be noted that the District Court in the present case at bar found that an "affirmative program" (76a) of hiring and promoting black school faculty and staff would be needed, thus lending itself to compromise with respect to the busing aspect of any final decree.

In view of the questionable educational benefits, the potential for disruption and economic consequence, and the evils of quotas involved in busing decrees, there appears to be no equity in busing for the purpose of securing racial balances in the public schools. Therefore, the District Court, in its "balancing" of the equities, abused its discretion in selecting the drastic color conscious remedy of a Metropolitan busing remedy in the pursuit of the questionable benefits flowing from such decrees, and in the face of the unquestionable detriments.

Conclusion.

The judgment of the Court of Appeals should be affirmed except insofar as it affirmed the Rulings, Findings, and Conclusions of the District Court, and in this respect it should be reversed and the cause should be remanded to the District Court with directions to dismiss the complaint with respect to the school districts outside the City of Detroit.

Respectfully submitted,

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